

1 HB281
2 199725-3
3 By Representatives Brown (C) and Stringer (N & P)
4 RFD: Mobile County Legislation
5 First Read: 21-MAR-19

1 land for the purpose, whether immediate or future, divided for
2 purposes of sale or of building development shall be done by
3 recorded plat in accordance with Section 35-2-50, Code of
4 Alabama 1975.

5 Section 3. In order for a road to be considered
6 under this act, all of the owners of property located adjacent
7 to the named road, or portion of the named road to be
8 considered, and whose property does not gain access from
9 another openly traveled public or private right-of-way, shall
10 sign the petition. The petition shall be submitted to the
11 county commission during the month of January requesting the
12 commission to consider the acceptance of the named privately
13 maintained road into the county road maintenance system.

14 Section 4. A chair shall be designated on this
15 petition to represent the petitioners and to act on their
16 behalf. A map of legible size indicating the location of the
17 named road shall be presented with the petition. The petition
18 should clearly state the name to be assigned to the road. The
19 petition shall certify to the intent of the adjacent property
20 owners to offer jointly, at no cost to the county, a minimum
21 of 60-foot width of right-of-way, along an alignment that
22 complies with accepted design criteria and does not compromise
23 the safety of the traveling public, together with any required
24 drainage easements as determined by the county engineer to
25 adequately maintain the road. The petition shall certify that
26 the adjacent property owners will jointly and severally
27 indemnify the county against liability for roadway defects for

1 a period not to exceed five years after acceptance of the road
2 or roads by the county. The petition shall certify that the
3 petitioners, at their expense, shall provide funds for the
4 purchase of the necessary driveway culvert pipe for
5 installation by the county as a prerequisite to acceptance and
6 maintenance. The petition shall certify that the petitioners,
7 at their expense, shall pay for the relocation of any
8 utilities and any fences required to accommodate the necessary
9 roadway improvements and associated drainage improvements.

10 Section 5. On or prior to the first day of the month
11 of February, the county commission shall submit copies of each
12 petition received to the county engineer. The county engineer,
13 on or prior to the last day of the month of March of the same
14 year, shall return to the commission a prioritized list of the
15 roads submitted by petitioners. This prioritized list shall be
16 based on the density of development along each road. The list
17 shall designate the commission district in which the road is
18 located. The county commission shall review the list of
19 eligible roads, and on or prior to the last day of April,
20 shall return to the county engineer the prioritized list
21 designating those roads which shall be considered for
22 acceptance for the county road maintenance system in
23 accordance with the prioritized density of development. The
24 county commission shall concurrently notify the chair for the
25 petitioners of each selected road to contact the county
26 engineer to coordinate the right-of-way acquisition, utility

1 relocations, fence relocations, and the purchase of driveway
2 culvert pipe.

3 Section 6. The provisions of this act shall be in
4 accordance with the following sequence dates:

5 (1) January - Petitions for road maintenance will be
6 accepted by the county commission only during the month of
7 January.

8 (2) February - Petitions forwarded to the county
9 engineer for analysis and recommendations.

10 (3) March - On or before the last day of the month
11 of March, the county engineer shall submit a prioritized list
12 of roads submitted by petition to the county commission.

13 (4) April - On or before the last day of the month
14 of April, the county commission shall designate those roads
15 which will be considered for addition to the county road
16 maintenance system.

17 (5) May - Prior to or during the first regular
18 commission meeting in the month of May, the county commission
19 shall assign consultants to prepare surveys, construction
20 plans, and deed and easement documents.

21 (6) July - The consultant designated by the
22 commission shall have until the last day of July to prepare
23 right-of-way deed and easement documents, as required. On or
24 prior to the last day of the month of July, the county
25 engineer shall notify the chair for each petition selected by
26 the commission that the right-of-way deed and easement

1 documents are prepared and request that the chair begin work
2 toward the execution of the documents.

3 (7) August - The consultant designated by the
4 commission shall have until the last day of August to complete
5 the design of the roadway improvements and the associated
6 drainage improvements. On or prior to the last day of August,
7 the county engineer shall notify the chair for each petition
8 that the construction plans for the roadway have been
9 completed and are ready for use in coordinating the relocation
10 of utilities and the relocation of fences. The chair processes
11 the right-of-way deed and easement documents and coordinates
12 activities with the property owners.

13 (8) September - On or prior to the last day of the
14 month of September, all right-of-way deed and easement
15 documents shall be executed and returned to the county
16 engineer by the chair.

17 (9) October - The chair shall work on the
18 coordination of utility relocations and the collection of
19 funds from the individual property owners for the purchase of
20 driveway culvert pipe.

21 (10) November - On or prior to the last day of the
22 month of November, the chair shall have reported to the county
23 engineer that all utility relocations have been completed,
24 that all fences have been relocated, and that all the funds
25 have been collected and delivered for the purchase of all of
26 the required driveway culvert pipe to the county engineer's
27 office. The county shall deposit the delivered funds for the

1 purchase of driveway culvert pipe into an escrow account for
2 this road improvement.

3 (11) December - On or prior to the last day of the
4 month of December, the county commission shall accept those
5 roads on which the chair has met all the requirements set out
6 in the act at an official county commission meeting and
7 instruct the county engineer to place the roads on the county
8 road maintenance system.

9 Section 7. Any chair who has not met all the
10 requirements pursuant to the schedule set out in this act may
11 request in writing a one-year extension, and upon the
12 recommendation of the county engineer and approval of the
13 county commission, be continued in the program and allowed one
14 additional year to complete all the requirements set out in
15 the act for acceptance into the county road maintenance
16 system.

17 Section 8. The county engineer shall submit a
18 prioritized list based on density of development, as
19 determined by a check of the records in the office of the
20 county tax assessor, of those roads which have been submitted
21 by petition to the county commission. The list shall be
22 submitted to the commission for acceptance on or prior to the
23 last day of March. The county engineer shall submit a report
24 on the number of miles of county maintained dirt roads graded,
25 drained, based, and paved by the county in the unincorporated
26 areas of the county during the preceding calendar year. This
27 report shall be by commission district. The county commission

1 shall select the appropriate number of miles in each
2 commission district for that year's program from the
3 prioritized listing submitted by the county engineer.

4 Section 9. The petitioners shall not submit any road
5 or portion of road for consideration in this program that do
6 not connect directly to an existing county, municipal, or
7 state maintained road. Individual property owners shall be
8 required to bear the expense of the purchase of driveway
9 culvert pipe as required to provide adequate drainage and
10 serve the property owner for access to the property.

11 Individual property owners shall be required to execute any
12 right-of-way deed or easement documents as an obligation under
13 this act at no expense to the county. Property owners,
14 individually or jointly, shall be required to bear the cost of
15 any utility relocations necessary to accommodate the roadway
16 improvements and associated drainage improvements. Property
17 owners, individually or jointly, shall be responsible for the
18 relocation of existing fences or private encroachments out of
19 the proposed 60-foot minimum width right-of-way at no cost to
20 the county. Individual property owners shall cooperate fully
21 with the chair selected in the petition and coordinate any and
22 all matters concerning the road with and through that
23 designated individual.

24 Section 10. The chair designated on the petition
25 shall be the official representative for the petitioners and
26 shall be responsible for the following duties:

1 (1) Upon notification by the county commission that
2 the road has been selected for the program, the chair shall
3 contact the county engineer and coordinate all further
4 activities with that office.

5 (2) The chair shall be responsible for getting all
6 right-of-way deed and easement documents executed and
7 submitted to the county engineer on or prior to the last day
8 of the month of September. All deed and easement documents
9 necessary for the road to be accepted in the program shall be
10 submitted together in one submittal.

11 (3) The chair shall coordinate the relocation of all
12 utilities necessary for the proper maintenance of the road
13 with the proper utility authorities and shall notify the
14 county engineer when all such relocations have been completed.

15 (4) The chair shall coordinate the collection of
16 funds from the individual property owners for the purchase of
17 all driveway culvert pipes and deliver a single cashier's
18 check for the total amount of all the funds for all the
19 required driveway culvert pipes to the county engineer. The
20 chair shall provide a list of the funds collected for each
21 tract or property along the selected roadway. This task shall
22 be completed on or prior to the last day of the month of
23 November.

24 (5) The chair shall coordinate the relocation of
25 existing fences and other private encroachments out of the
26 proposed 60-foot minimum width right-of-way. This task shall

1 be completed on or before the last day of the month of
2 November.

3 Section 11. The county shall be financially
4 responsible for the cost of all consulting fees for the
5 surveying and design or roadway construction plans,
6 right-of-way surveys and the preparation of all deed and
7 easement documents, for the recording of all right-of-way deed
8 and easement documents, the cost of the installation of all
9 driveway culvert pipes, the cost of purchase and installation
10 of all cross drain pipes and headwalls, the cost of all
11 traffic control devices and the installation and maintenance
12 of the devices, and shall bear the cost of continued
13 maintenance.

14 Section 12. The alignment of the centerline of the
15 proposed right-of-way will follow as closely as feasible the
16 existing centerline of the existing roadway except where such
17 alignment would not comply with accepted design criteria or
18 compromise the safety of the traveling public. The
19 right-of-way shall be a minimum of 60-foot in width.

20 Section 13. Upon acceptance of any public roads into
21 the county road maintenance system, the county engineer shall
22 instruct the appropriate road maintenance departments to
23 commence maintenance and to install the appropriate traffic
24 control devices. The chair for any selected road which does
25 not fulfill the provisions of the act by the dates established
26 herein and not granted a one-year extension by the county

1 commission shall be allowed to reapply for the next available
2 future program.

3 Section 14. (a) The county commission is empowered
4 to adopt the necessary rules for the construction of county
5 maintained roads in the county. The county commission shall be
6 authorized to adopt rules regarding the planning and
7 construction of streets and roads within subdivisions.
8 Subdivision rules shall be adopted or amended by first holding
9 a public hearing thereon after due notice thereof as otherwise
10 required by law for similar matters requiring a public
11 hearing.

12 (b) Exempt and excluded from the definition of a
13 subdivision and exempt from the laws and regulations
14 pertaining to subdivisions shall be the division of a tract of
15 land into parcels or property containing five acres or more
16 each.

17 (c) The county commission may authorize the use of
18 private paved roads, provided all of the following conditions
19 are satisfied:

20 (1) A recorded plat shall be required for a proposed
21 subdivision that incorporates a private road or contains
22 property situated adjacent to a private road.

23 (2) The private road or roads shall be plainly
24 marked and identified on the plat as a "private road - not to
25 be maintained by the State of Alabama or Mobile County."

26 (3) The private road or roads shall have a minimum
27 right-of-way width of 50 feet, unless waived by the county

1 engineer, due to special or unique circumstances of the
2 proposed development, and shall provide continuous paved
3 access to a publicly maintained road.

4 Section 15. The provisions of this act are
5 severable. If any part of this act is declared invalid or
6 unconstitutional, that declaration shall not affect the part
7 which remains.

8 Section 16. All laws or parts of laws which conflict
9 with this act are repealed. Act 87-663, 1987 Regular Session
10 (Acts 1987, p. 1172), Act 91-337, 1991 Regular Session (Acts
11 1991, p. 657), Act 2004-688, 2004 1st Special Session (Acts
12 2004, p. 71), and Act 2009-554, 2009 Regular Session (Acts
13 2009, p. 1600), are specifically repealed.

14 Section 17. This act shall become effective
15 immediately following its passage and approval by the
16 Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Mobile County
Legislation..... 21-MAR-19

Read for the second time and placed
on the calendar with 1 substitute
and..... 02-MAY-19

Read for the third time and passed
as amended..... 07-MAY-19

Yeas 29, Nays 0, Abstains 69

Jeff Woodard
Clerk